

**MINUTES OF THE BOARD OF DIRECTORS  
OF THE DEPARTMENT OF WATERWORKS,  
CONSOLIDATED CITY OF INDIANAPOLIS**

**DATE: AUGUST 21, 2002**

The following members of the Board of Directors ("Board") of the Department of Waterworks ("Department"), Consolidated City of Indianapolis ("City") were in attendance: Jack Bayt, Beulah Coughenour, Barbara Howard, S. Michael Hudson, John Mutz and Samuel L. Odle.

The meeting was called to order at 5:00p.m. by Chairperson Mutz in Room 107 of the City-County Building, 200 E. Washington Street, Indianapolis, Indiana.

**I. Approval of the Minutes of the Board Meeting of July 25, 2002**

Chairperson Mutz greeted the Board and acknowledged that Minutes of the July 25, 2002 Board meeting as set forth in Exhibit A ("Minutes"), attached hereto and made a part hereof, had been delivered to the Board prior to the current meeting. Chairperson Mutz asked that the Board review the Minutes. Following review of the Minutes, Chairperson Mutz stated he was ready to entertain any motion to amend or approve the Minutes. Vice Chairperson Odle moved to approve the Minutes. Ms. Coughenour seconded such motion. Chairperson Mutz recognized the motions to approve the Minutes and asked for any further discussion. No further discussion was required and the Board unanimously approved the Minutes of the Meeting. Chairperson executed the Minutes and Mr. Hudson attested to such execution with his execution of the Minutes.

**II. Financial Report of the Department Delivered by Robert Erney, Financial Manager of the Department**

Chairperson Mutz called upon Mr. Erney to deliver the financial report of the Department as set forth in Exhibit B ("Financial Report"), attached hereto and made a part hereof.

Mr. Erney summarized the first page of the Financial Report.

Chairperson Mutz asked for questions from the Board. He then asked for Mr. Erney to indicate where on the first page of the Financial Report was the \$1.2 million expense related to the Department's assumption of the Indianapolis and Fisher bonds. Mr. Erney replied that he added the principal and interest payments of the bonds together and that this number is on the first page of the Financial Report.

Chairperson Mutz asked what are "miscellaneous expenses" as set forth in the Financial Report. Mr. Erney replied that these expenses are supplies, computers, and equipment needed for the Department. Chairperson Mutz questioned if expenses for personnel as set forth in the Financial Report reflected the number of employees that the Department has

retained. Mr. Erney answered affirmatively stating that those expenses included all employee related expenses.

Chairperson Mutz asked if the accounts payable amount as indicated in the Financial Report were financial obligations the Department assumed from the Indianapolis Water Company as Mr. Erney had indicated in the prior month's Board meeting. Mr. Erney answered affirmatively stating that the Department had reimbursed USFilter Indianapolis Water, LLC ("USFIW") for pre April 30, 2002 obligations to an amount just under \$50,000 and that such reimbursement should end soon.

Chairperson Mutz asked for other questions from the Board. Ms. Coughenour asked for an explanation of the accounts payable. Mr. Erney responded that these obligations the Department assumed from NiSource, Inc. on April 30, 2002. He stated that USFIW makes these payment obligations and sends the Department a list of such payments whereupon the Department reimburses USFIW. Chairperson Mutz added that the Department is receiving pre April 30, 2002 account receivables too. Mr. Erney agreed adding that those receivables are not identified separately from the total account receivables.

Ms. Coughenour asked what are "miscellaneous deposits". Mr. Erney responded that these are main extension deposits and can be shown separate from other deposits. Ms. Coughenour requested that to be done.

Acknowledging no further questions were forthcoming from the Board concerning the first page of the Financial Report, Chairperson Mutz requested that Mr. Erney continue delivery of the Financial Report. Mr. Erney summarized the second page of the Financial Report.

Chairperson Mutz asked for the identity of the Renewal and Replacement Fund. Mr. Erney and Chairperson Mutz discussed that the fund is for the Department's capital projects with Mr. Erney stating that monies are transferred to this fund from the revenue fund. Mr. Erney stated that approximately \$24 million is currently in the revenue fund. Chairperson Mutz stated that he would like to see the Department conduct financial projections for future years which would serve to aid the Department's review of its capital plan.

Chairperson Mutz asked if the amount appropriated for this year's capital projects are sufficiently funded in the renewal and replacement fund. Mr. Erney stated that it is not and a transfer from the revenue fund to the replacement fund will need to occur. Mr. Hudson asked what causes a transfer to occur from the revenue fund into other bond funds and if there is a threshold that must be met that would necessitate a transfer. Mr. Erney stated no threshold exists and stated, as an example, that the Department makes transfers into the O & M fund based on what the Department determines which bills will become due next month. He stated the same occurs for the interest account.

Chairperson Mutz stated that ultimately the Department will need to forecast each of these categories but that such forecasts would be difficult to do in the Department's first year of operations. Chairperson Mutz asked for questions from the Board. Acknowledging no further questions were forthcoming from the Board concerning the second page of the Financial Report, Chairperson Mutz requested that Mr. Erney continue delivery of the Financial Report. Mr. Erney summarized the third page of the Financial Report.

Chairperson Mutz asked Mr. Erney to explain the "net billings of water service" term used in the Financial Report. Mr. Erney replied this category shows the billings that actually have been sent to customers and that it is down 7% from last year.

Chairperson Mutz asked if the Department can determine what the amount of receipts were in 2000 and Mr. Erney responded that was possible to do. Chairperson Mutz stated that he didn't need to see such information but that he was concerned that receipts were down by 10% of at this point in time as compared to last year. Mr. Erney responded that some of the reason for this decrease is a delay in the billing cycle. He further explained that revenues collected in July were from billings sent in June for May's water production. Mr. Bayt asked if the percentage was a true measure year to date and Chairperson Mutz asked if a serious enough problem exists that may affect cash flow. Mr. Erney stated that cash flow is currently not a problem.

Chairperson Mutz stated that he assumed the Department would conduct auditing to determine if there are collection problems. Mr. Erney responded affirmatively. Chairperson Mutz asked for further questions from the Board. Vice Chairperson Odle asked if operating revenues are cash in the door or what has been billed. Mr. Erney responded that receipts are cash in the door. Vice Chairperson Odle asked if the Department can compare its collection rate to prior years. Mr. Erney responded that in July, 51% of the receipts collected were for billings less than 30 days old, 18% for 30 to 60 days and 6.4% for greater than 60 days. Mr. Erney stated those numbers were down from last year.

Chairperson Mutz stated that the collection rate sounded horrible. Mr. Bayt asked if the Department collects late fees. Mr. Erney responded that he believed so but has not reviewed an actual bill to determine if that is the case. Mr. Bayt suggested that the Board may wish to see these numbers. Vice Chairperson Olde asked if late fees are counted as revenue from water sales. Mr. Erney responded affirmatively.

Vice Chairperson Odle pointed out that under the 30 day collectibles is down from last year and Mr. Erney responded that they are down significantly. Chairperson Mutz stated that the collection rate appeared to be a big concern. He added that in businesses he has been involved with, account receivables beyond 30 days is a major concern.

Carlton Curry, Director of Contracts and Operation for the Department, stated the Department is working with USFIW to address this concern. He agreed that the current collection rate numbers are too low and that even 90% would be too low. He cited that

at its present course, USFIW would not meet its incentive goals under the management agreement. He further stated that the Department has asked individuals previously employed by the Indianapolis Water Company to determine how this rate was defined previously. Furthermore, he stated that the Department and Bob Meyer of USFilter are working together to determine: (1) if the numbers are accurate and (2) define the current situation.

Mr. Hudson asked if there are a category of bills in dispute. Mr. Curry stated from his point of view, no. He added some settlements have been made regarding some bills and late fees and that if these are considered disputed bills then such bills have existed. Chairperson Mutz stated that the Board's concern was that billing problems have occurred and that they have been due to inaccuracy. Mr. Curry stated he had no facts to support such a conclusion but that in concept he agreed with Chairperson Mutz. Chairperson Mutz asked Mr. Erney to continue.

Mr. Erney summarized the fourth and fifth pages of the Financial Report. Chairperson Mutz asked when the first incentive fee was due. Mr. Erney responded that the fee was due August 4th and that it has been paid. Mr. Curry explained that the Department agreed to pay the fee based on the following formula: count the full months of May and June and divide the annual incentive fee by 12, multiply by 2 then multiply that by 60%. Curry explained that the aforementioned formula was employed because effectively a 40% holdback existed in the first period because USFIW operated the waterworks for only 2 months during the second quarter of the year. Furthermore, he stated that the maximum amount we will pay to USFIW will be 37 1/2% of the advance incentive fee.

Chairperson Mutz asked if the Department will true up at the end of the year the incentive fee to be based on actual performance. Mr. Curry responded affirmatively and stated that this arrangement derived from negotiating the management agreement. He explained that the parties had agreed that if USFIW made a good faith effort to perform then its cash flow would improve but at no risk to the Department of overpaying.

Chairperson Mutz stated that from a performance standpoint, the Board wants USFIW to earn this fee and asked for further questions from the Board. Given that no further questions were forthcoming, Chairperson Mutz asked if the Controller's Office had any concerns that the Board should be aware of. Mr. Erney responded that he didn't believe so. Ms. Coughenour did state that she would like to see aging account receivables in next month's report.

### **III. Report of USFIW Delivered by James H. Buckler, Operations Manager of USFIW**

Chairperson Mutz recognized Mr. Buckler. Mr. Buckler read his report as set forth in Exhibit C ("USFIW Report"), attached hereto and made a part hereof. Mr. Buckler prefaced the delivery of the USFIW Report stating that this summer has seen very high water production. During the deliver of the USFIW Report to the Board by Mr. Buckler, he commented that the high water production rate will aid the Board to determine the

types of capital projects that are needed to maintain the integrity of the waterworks system.

Chairperson Mutz asked for questions. Vice Chairperson Odle asked if there was any method to account for water loss due to a main break. Mr. Buckler responded that such water is called “unaccounted water” and that measuring such water is not useful. Chairperson Mutz stated that there will always be some water loss to which Mr. Buckler agreed. Vice Chairperson Odle asked if there were high water production numbers on the day of a mainbreak that he believed occurred on August 8, 2002. Mr. Buckler stated no and added that USFIW is currently pushing the limits of the system because of high water production. He further added that such water production affords the Board with an opportunity to examine the system and determine what measures need to be taken to protect the system’s integrity.

Vice Chairperson Odle asked if the minority participation goals are connected only to capital projects. Mr. Buckler said those goals apply to capital projects and operations and management spending. Mr. Bayt asked what kind of cost is incurred on water production due to the application of carbon treatments. Mr. Buckler offered to obtain such information and Mr. Bayt declined stating he simply wanted to put the question to USFIW.

Ms. Coughenour asked what “MIB” is as set forth in the USFIW Report. Mr. Buckler stated it is “methyloborneol”. Chairperson Mutz asked about the status of the IUPUI collaborative project with USFIW and other environmental concerns. Mr. Buckler responded that the IUPUI project agreement is at IUPUI awaiting execution. Vice Chairperson Odle asked about the status of personnel issues and the union concerns generally. Mr. Buckler responded that USFIW implemented its new organizational structure on August 10, 2002, and announced Mr. Meyer is on site on a temporary basis thus the position he occupies needs to be filled. Mr. Buckler added that USFIW continues to effectively manage daily operation of the waterworks. He stated that negotiations are continuing with the customer service group employees and that USFIW is attempting to meet with the physical bargaining unit employees on a weekly basis.

Mr. Hudson asked if there has been an increase in grievances since USFIW assumed control of the operations. Mr. Buckler stated that nothing has risen to his management level to indicate as such.

Chairperson Mutz asked if USFIW expected water usage problems similar to what has occurred in other parts of the United States. Mr. Buckler stated no and added that historically mechanisms have been in place to prevent such supply concerns. He added that water supply is plentiful compared to other areas. He also added that USFIW has come close to issuing water restrictions but has yet to do so.

Vice Chairperson Odle asked when does the union contract expire. Mr. Buckler responded that the contract ends in December 2003. Chairperson Mutz stated that during the hearings, USFilter’s human resources expert mentioned that USFIW may alter certain

aspects of its relationship and asked if those negotiations are ongoing. Mr. Buckler stated those talks have not started. Vice Chairperson Odle stated that he would like to get Mr. Buckler's thoughts as to how to make that negotiation period a smooth one and to keep the Board apprised.

Mr. Buckler responded that such negotiations are a leading feature that USFIW is addressing. Mr. Buckler added that the Board should keep in mind that the employees are working in a new environment. He added that USFIW has a lot to offer its employees.

Chairperson Mutz stated that within the last month, USFIW and the Department met with the Indiana utilities Regulatory Commission ("IURC") and that the meeting went well. He stated that billing and taste and odor concerns were addressed. Chairperson Mutz stated the Board should compliment USFIW for its efforts concerning taste and order issues. He added that the Department asked USFIW to address those concerns in the bidding process and they now have been addressed.

Mr. Buckler stated USFIW realizes that applying algaecide is not a long term solution and that USFIW has contingencies in place.

#### **IV. Report of Carlton Curry, Director of Contracts and Operations of the Department**

Chairperson Mutz recognized Mr. Curry. Mr. Curry stated that as an amendment to Mr. Buckler's remarks concerning the IUPUI/USFIW project, the agreement is now in Bloomington awaiting signature. Mr. Curry read his report as set forth in Exhibit D ("Operations Report"), attached hereto and made a part hereof.

Chairperson Mutz asked if Mr. Carlucci, town manager of Plainfield was involved with meetings with Plainfield. Mr. Curry responded yes and continued with the Operations Report.

Vice Chairperson Odle suggested that the Department should consider collaborating with museums and art schools for volunteer work regarding the cataloging of the Department's antiquities. Mr. Curry agreed and welcomed the assistance of Board members and their contacts in such an effort.

Mr. Hudson asked as to the status of the Service Advisory Board. Mr. Curry responded that there are three advisory groups-the Citizens Advisory Group which will meet on September 10, 2002, the technical advisory group and the service advisory board. He added that the Department is identifying the contacts to form the latter two groups.

Kobi M. Wright, Special Assistant Corporation Counsel of the City, stated that he has delivered written correspondence to the town executives of those localities that executed intergovernmental agreements with the Department requesting that those localities appoint a representative to serve on the Service Advisory Board. He added that he has

received 4-5 responses to date and expects for the Service Advisory board to meet in October.

Chairperson Mutz and Mr. Curry in discussion stated the Service Advisory Board has a budget of \$150,000 for technical support as appropriated by the Department. Mr. Hudson asked whether a legal timeline requires the Service Advisory Board be formed in a certain time period. Mr. Wright answered no and added that he thought it prudent to get the board functioning soon.

Mr. Bayt asked for an organizational chart for the relationships involved in the waterworks system and Mr. Curry responded that he would provide one. Chairperson Mutz acknowledged that the IURC requested a similar document in its meeting with USFIW and the Department. Chairperson Mutz asked for further questions. Acknowledging there were none, Chairperson Mutz addressed the next item of the agenda.

**V. Resolution No. 38, 2002- Approval of Consulting Agreements with DLZ Indiana, LLC, Malcolm Pirnie, Inc. and Shrewsbury & Associates, LLC**

Chairperson Mutz recognized Mr. Wright. Mr. Wright summarized the agreements as set forth in Resolution No. 38, 2002 (“Consulting Agreements”). Chairperson Mutz stated that the Board should examine Exhibit A of each Consulting Agreement which describes the services to be provided by each consultant. He further added that he assumed Mr. Wright and Mr. Erney have conducted detailed discussions with the consultants regarding the Consulting Agreements.

Mr. Wright responded that Mr. Curry has been in contact with the consultants. Chairperson Mutz asked Mr. Curry to describe what each consultant would do under the Consulting Agreements. Mr. Curry stated that DLZ would perform the physical inspection of certain capital projects approved by the Board and those presented by USFIW to the Board. Mr. Curry added that he expected to further negotiate down the “not to exceed” amount of the DLZ Consulting Agreement.

Chairperson Mutz asked for questions. Chairperson Mutz asked if Katherine Davis, the City’s Controller, had reviewed the Consulting Agreements. Mr. Curry stated that to his knowledge, no. Vice Chairperson Odle pointed out that she is a signatory of the Consulting Agreements. Chairperson Mutz stated that Ms. Davis was particularly concerned that someone examine the capital issue. Chairperson stated that he is comfortable with DLZ doing such work but he wants to make sure that the scope of the work fits with what Ms. Davis had in mind. He stated that the Board is not only bipartisan but also mindful that it involve all the parties that have an interest in a certain matter.

Vice Chairperson Odle stated that he thinks DLZ is a fine firm but asked Mr. Buckler why can’t USFIW do this work given that the Department is paying an operator to perform the operations of the waterworks system. Mr. Buckler responded that he was not

in a position to answer the question. Mr. Curry stated he could respond and Vice Chairperson Odle stated that was fine but that he did want to hear Mr. Buckler's comments at some point.

Mr. Curry alluded to the White River Environmental Partnership ("WREP") as an example of governmental oversight obligations in a public-private enterprise. He stated that WREP has 11 full time employees and some consulting assistance. We have 4 full time employees planned and the expertise of consultants in the oversight realm. He added that it is third party inspection that the Board does not have to occur if the Board decides otherwise. He added that most governmental entities conduct this type of oversight.

Chairperson Mutz recognized Mr. Wright. Mr. Wright stated that as an amendment to Mr. Curry's comments that the Department does not have to retain consultants, the Department however does have oversight obligations under the management agreement. He added that where the Department cannot address all of these obligations with its staff, the Department may choose to hire consultants.

Chairperson Mutz stated that he would be very uncomfortable without this outside assistance. He added that the capital projects are outside of the fee the Department pays to USFIW thus it is an additional profit source for USFIW. As such, he added, the Department needs assurances that the projects are needed, specifications are met and effective use of the available resources occurs. He added that he believes the Department was formed with such outside consulting work in mind.

Mr. Hudson stated that he categorizes the consultants as the Department's technical staff that reviews proposals made to technical features of the management agreement. He added that those involved with the formation of the Department had not anticipated creating a technical staff but to employ consultants instead.

Mr. Buckler stated that USFilter has the ability to perform on the management agreement. He added that this decision is completely within the Board's discretion and in his mind should be based on what the community has done in the past and the Board's comfort level with USFIW's performance.

Vice Chairperson Odle stated that he was prepared to vote in favor of the Consulting Agreements based on the recommendations of the Department's staff. He added that the Department should look carefully to avoid a government mindset and that the public-private relationship was established to operate the waterworks as a private business. He added that he was in favor of retaining expertise but not an additional layer of oversight. He also stated that Exhibit A of the DLZ Consulting Agreement mistakenly attached Malcolm-Pirnie's Exhibit A.

Mr. Wright acknowledged that as an error and that the record would reflect that the DLZ Exhibit A would be attached to the DLZ Consulting Agreement.



Chairperson Mutz called on Ms. Coughenour to speak about her extensive experience with public-private agreements. Ms. Coughenour stated after the first phase of the agreement, the operator took the public employees and consultants that had expertise. She also stated that a lot of disagreements as to obligations under the agreement occurred and still are occurring and she hopes that will not occur with USFIW.

Mr. Curry then summarized that Malcolm Pirnie Consulting Agreement. He stated that Malcolm Pirnie would aid in the capital planning for the Department. He underscored that this planning component is distinct from the inspection duties proposed for DLZ. Mr. Curry stated the reason the duties have been separated is to prevent the temptation of a consultant who oversees both components to create more work for itself by suggesting certain actions to be undertaken in the planning component as a result of inspection results as determined by the same consultant.

Mr. Curry then summarized the Shrewsberry and Associates, LLC Consulting Agreement. He stated this Consulting Agreement would provide for oversight of water quality- a critical and highly technical area that accounts for 35% of the total eligible incentive fees.

Chairperson Mutz thanked Mr. Curry for the summary. He then asked for questions from the Board. Chairperson Mutz stated that he personally knew Mr. Shrewsberry and asked if Mr. Shrewsberry intended to employ a special group of people to assist him to fulfill the obligations of the Consulting Agreement. Mr. Curry responded that Shrewsberry & Associates, LLC submitted curriculum vitae with its proposal and will supplement its staff with recognized experts in the field.

Chairperson Mutz suggested that once the IUPUI/USFIW project commences, Shrewsberry & Associates, LLC may be of assistance. Mr. Curry responded that he hoped Shrewsberry & Associates LLC would be able to use data obtained from IUPUI as well.

Ms. Howard asked if DLZ, Malcolm Pirnie and Shrewsberry & Associates submitted the only proposals to do the work recommended by the Department's staff. She stated that she reviewed the DLZ and Malcolm Pirnie proposals. Mr. Curry asked if she had received the Shrewsberry & Associates proposal and she answered no. Chairperson Mutz stated that he did not believe the Board had received the proposals and Mr. Curry answered that it did not. Mr. Curry explained that the proposals were submitted separate from the contracts and that the Department's staff had been diligently working to present the Consulting Agreements to the Board tonight. Chairperson Mutz acknowledged Mr. Curry's response.

Vice Chairperson Odle questioned that given the importance of water quality, is enough funding allocated to that consulting duty. He noted that the applicable Consulting Agreement has the lowest "not to exceed" amount. Mr. Curry responded that all of the Consulting Agreements are for work from September to December 31, 2002. and that the

“not to exceed” amounts would increase next year whether or not these Consulting Agreements are renewed or other consultants are retained.

Mr. Curry then stated that there are some oversight obligations that will be conducted by the Department’s staff. He noted that if such an arrangement does not work effectively, the Department’s staff would recommend the Board retain consultants to conduct such work. Mr. Hudson stated that the Board had budgeted nearly \$600,000 for consultants in 2002 and that retaining these consultants nearly consumes that budgeted amount. Mr. Erney agreed.

Chairperson Mutz asked for questions from the Board. Acknowledging none were forthcoming, Chairperson Mutz asked for motions to approve Resolution 38, 2002. Ms. Coughenour moved in favor of the adoption of Resolution 38, 2002. Vice Chairperson Odle seconded the motion. Resolution 38, 2002 was adopted unanimously by the Board.

## **VI. Resolution 39, 2002- Approval of Gatorade Main Extension Agreement**

Chairperson Mutz recognized Mr. Wright. Mr. Wright summarized Resolution 39, 2002. He added that Tom Bruns and John Davis of USFIW, the City, Mr. Curry and Mr. Erney were involved in developing the agreement addressed by Resolution 39, 2002.

Chairperson Mutz asked if someone from Gatorade was present at the meeting. Mike McGowan of Gatorade stated he was a representative of the company. Chairperson Mutz asked if the company’s operations were expanding. Mr. McGowan responded affirmatively. Chairperson Mutz noted that he believes people are unaware that the Department’s product goes into Gatorade.

Vice Chairperson Odle asked for the amount of the Department’s capital expenditure. Mr. Wright responded that it is approximately \$1.012 million and that it will be repaid by Gatorade over a five year period. He added that after the repayment, the Department would continue to bill Gatorade for its water usage. Mr. Erney added that the capital expenditure comes out of the Department’s capital account.

Chairperson Mutz asked for further discussion. Acknowledging none was forthcoming, Chairperson Mutz asked for motions from the Board to adopt Resolution 39, 2002. Vice Chairperson Odle moved for adoption and Ms. Coughenour seconded the motion. The Board unanimously adopted Resolution 39, 2002.

## **VII. Other Business**

Chairperson Mutz recognized Mr. Glenn Platt. Mr. Platt stated that in the past the water resources study committee has examined water flow issues. He stated that the group develops policy for advising people of their rights when water pressure is low. He encouraged the Department and USFIW to be involved with the committee.

Chairperson Mutz stated that USFIW and the Department should know about proposed legislation and that among themselves determine which entity should be involved the committee.

Mr. Platt also stated that as to future water use, the Department and USFIW should look at conservation. He stated that often the least expensive way to address new use concerns is to conserve. He urged the Department and USFIW to do so by next spring. Chairperson Mutz responded that it is a complex economic tradeoff that has to be analyzed. He thanked Mr. Platt and asked for any additional public comments. Acknowledging none were forthcoming, Chairperson Mutz asked for a motion to adjourn the meeting. Vice Chairperson Odle motioned to adjourn and Ms. Coughenour seconded. The Board unanimously approved the motions to adjourn the meeting at 6:25p.m.

Approved this 26th day of September, 2002

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John Mutz, Chairperson

Attest:

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S. Michael Hudson,  
Secretary-Treasurer